

CV 06 5896

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

COMPLAINT

★ OCT 31 2006 ★

Plaintiff,

(91)

Civil Action  
No.

LONG ISLAND OFFICE

-against-

LOCAL 1104 COMMUNICATIONS WORKERS  
OF AMERICA,

Defendant.

WEXLER, J.  
BOYLE, M.

Plaintiff ELAINE L. CHAO, Secretary of Labor, United States Department of Labor,  
by her attorney, ROSLYNN R. MAUSKOPF, United States Attorney, Eastern District of New York,  
VINCENT LIPARI, Assistant U.S. Attorney, of counsel, **alleges** as follows:

**NATURE OF THE ACTION**

1. Plaintiff brings this action under Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (Act of September 14, 1959, 73 Stat. 519, et seq., 29 U.S.C. §§ 481-483 (hereinafter referred to as the "Act")).

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this **action** pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1337, 28 U.S.C. § 1345, and 29 U.S.C. § 482(b).

3. Venue properly lies in this district pursuant to 28 U.S.C. § 1391(b) and 29 U.S.C. § 482(b).

**PARTIES**

4. Plaintiff, Elaine L. Chao, is the duly **appointed** Secretary of Labor, United States

Department of Labor. Plaintiff is authorized to bring this **action** pursuant to Section 402 of Title IV of the Act of 1959, 29 U.S.C. § 482(b).

5. Defendant Local 1104, Communications **Workers** of America, is, and at all times relevant, has been, an unincorporated association maintaining its principal office at One Florgate Road, City of Farmingdale, County of Nassau, State of **New York**.

### **FACTUAL ALLEGATIONS**

6. Defendant is, and at all times relevant, **has** been, a local labor organization engaged in an industry affecting commerce within the **meaning** of sections 3(i), 3(j) and 401(b) of the Act, 29 U.S.C. §§ 402(i), 402(j) and 481(b).

7. Defendant is, and at all times relevant **to this** action has been, chartered by and subordinate to the Communication Workers of America (**National**), a national labor organization engaged in an industry affecting commerce within the **meaning** of sections 3(i) and 3(j) of the Act, 29 U.S.C. § 402(i) and 402(j).

8. Defendant, purporting to act pursuant to **its** By-Laws, conducted an election of officers on October 21, 2005, which election was subject **to the** provisions of Title IV of the Act, 29 U.S.C. §§ 481-483.

9. By letter dated October 24, 2005, to the **Defendant's** Election Committee, Victor Rosado ("Complainant"), a member in good standing of **the Defendant**, protested the Defendant's October 21, 2005 election.

10. By letter dated October 31, 2005, to **the Complainant**, the Election Committee denied the protest.

11. By letter dated December 8, 2005, the **Complainant** appealed the decision of the

Defendant's Election Committee to the Defendant's Executive Board.

12. By letter dated December 14, 2005, to the Complainant, the Defendant's Executive Board denied the appeal.

13. By letter dated December 22, 2005, the Complainant appealed the Defendant Executive Board's decision to the National Vice President.

14. By letter dated January 24, 2006, the National Vice President denied the Complainant's appeal.

15. After he had exhausted the remedies available under Defendant's By-Laws and had received a final decision, the Complainant filed a timely complaint with the Secretary of Labor on February 8, 2006, within the one calendar month required by section 402(a)(1) of the Act, 29 U.S.C. § 482(a)(1).

16. In a series of letters, the Defendant agreed that the time within which Plaintiff may bring suit with respect to Defendant's aforesaid election would be extended to October 31, 2006.

17. Pursuant to Section 601 of the Act, 29 U.S.C. § 521, and in accordance with Section 402(b) of the Act, 29 U.S.C. § 482(b), the plaintiff investigated the complaint and, as a result of the facts shown by her investigation, found probable cause to believe that a violation of Title IV of the Act, 29 U.S.C. §§ 481-483, had occurred in the conduct of the Defendant's October 21, 2005 election and that the violation had not been remedied at the time of the institution of this action.

18. Section 401(e) of the Act, 29 U.S.C. § 481(e), was violated during the conduct of the aforesaid election in that Defendant applied an unreasonable petition requirement with respect

to the Operators Services Division of Defendant, thereby **denying** members a reasonable opportunity for the nomination of candidates.

19. The violation of section 401(e) of the Act, 29 U.S.C. § 481(e), found and alleged above may have affected the outcome of the Defendant's **October** 21, 2005 election for the offices of President, Secretary-Treasurer, Executive Vice President Education Division, Executive Vice President Operator Services Division, and Executive Vice **President** Telecommunications Division.

**WHEREFORE**, plaintiff prays for judgment: (a) declaring the Defendant's election for the offices President, Secretary-Treasurer, Executive Vice President Education Division, Executive Vice President Operator Services Division, and Executive Vice President Telecommunications Division to be null and void; (b) **directing** the Defendant to conduct a new election for these offices, under the supervision of the **plaintiff**; (c) for the costs of this action; and (d) for such other relief as may be appropriate.

Dated: Central Islip, New York  
October 31, 2006

ROSLYNN R. MAUSKOPF  
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